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29 April 2003

Mr. Corbin Davis
Clerk, Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RECEIVED

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RE: ADM File No. 2002-34
Proposed delay reduction amendments

OFFICE OF
THE CHIEF JUSTICE

Dear Michigan Supreme Court:

I have been tracking the Court of Appeals delay reduction proposals through the Appellate Practice Section and in other publications. I would like to offer my comments on some of the proposed rule changes.

In particular, I oppose the changes to MCR 7.212 that shorten the briefing times, eliminate stipulated extensions, and make motions for extensions only for good cause. As an attorney that lives out of state, yet still has a significant appellate practice in Michigan, these changes would wreak havoc on my ability to timely file briefs in the Court of Appeals. It often takes 3 to 5 days for mail to reach me in Arizona, thus cutting my time for briefing or for responding to a brief by that amount. If I start several appeals with a week of one another, all the briefs are due at or near the same time. The only way I can manage my own docket, be able to do motions, deal with emergencies, and keep the briefs timely is to spread them out with stipulations to extend and/or motions to extend time. As a solo practitioner I don't have the option of "assigning it to someone else" in order to keep a brief timely. I am afraid that eliminating stipulations and effectively eliminating motions to extend will only result in hastily written, timely briefs, or many more untimely briefs with a resulting increase in oral argument motions. I don't see how the Court of Appeals or the clients in Michigan benefit from either of these results.

Perhaps I would be more willing to cut briefing time and cut the time allowed for stipulations and extensions if the Court of Appeals actually processed the cases in a timely manner. It does not make sense to reduce briefing time when the real delay in the appellate process is in the "warehouse" - or how long the case has to sit until it can be worked on in the Court of Appeals. Speeding up the timing on briefs will only fill the "warehouse" faster with a concomitant increase in delay unless the "warehouse" problem is addressed first. I know that this means the impossible, more money for the Court of Appeals to hire more staff, but it has to be done before any Draconian briefing time cuts should be considered.

I truly would like to see a reduction in appellate delay, but the current proposal to cut briefing time, eliminate extensions, and make motions for extensions for good cause only is not the way to accomplish that goal at this time.

Sincerely,

Rosemary A. Gordon
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Attorney at Law

